UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/759,254	01/20/2004	Silke Kohlhase	P24854	6922

7055 7590 03/27/2008

GREENBLUM & BERNSTEIN, P.L.C.
1950 ROLAND CLARKE PLACE
RESTON, VA 20191

EXAMINER	
WEDDINGTON, KEVIN E	
ART UNIT	PAPER NUMBER
1614	

NOTIFICATION DATE	DELIVERY MODE
03/27/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

gbpatent@gbpatent.com
pto@gbpatent.com

Art Unit: 1614

Claims 82-101 and 103-145 are presented for examination.

Applicants' amendment, response, and terminal disclaimer filed February 19, 2008 have been received and entered.

Accordingly, the rejection made under obviousness-type double patenting over claims 19-77 of copending Application No. 10/759,160 as set forth in the Office action dated December 17, 2007 at pages 2-3 is hereby withdrawn because the applicants filed a terminal disclaimer.

Allowable Subject Matter

Claims 126-145 are allowable.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* **v.** *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 82-101 and 103-125 are again rejected under 35 U.S.C. 103(a) as being unpatentable over Riedel et al. (6,558,680 B1) in view of Chapin et al. (4,370,319), all of record, for reasons of record as set forth in the previous Office action dated December 17, 2007 at pages 3-4 as applied to claims 82-101 and 103-125.

Again, applicants' independent claim 82 does not recite the "critical limitation" (substantially free of mono- and di-fatty acid esters of glycerol and glycol).

Again, Riedel et al., does teaches the use of polymers (broadly) in the instant composition. Clearly, one skilled in the art would have assumed the substitution of one known element (a polymer) for another would have yielded predictable results at the time of the invention in the absence of evidence to the contrary.

The rejection made under 35 USC 103 is adhered to.

Claims 82-101 and 103-145 are not allowed.